

# Proving & Defending Medical Causation

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## **A. Medical Causation Standard to prove the injury was caused by the accident**

R.S.Mo. Section 287.020.3 (2005) sets forth the statutory standard for proving medical causation. According to that section, an injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability. “The prevailing factor” is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability. *Id.* The employee bears the burden of proof on all essential elements of his Workers’ Compensation case. *Fisher v. Archdiocese of St. Louis-Cardinal Ritter Institute*, 793 S.W.2d 195 (Mo. Ct. App. 1990). The employee must establish a causal connection between the accident and injury. *Id.* at 198.

### **Medical Perspective – Injury Caused by Accident**

- 1. Doctor accepts employee’s statements as fact and true unless incongruous with common sense or medical sense**
- 2. Mechanisms of injury-correlation with claimed injury and clinical studies**
  - a. Understand the activity/claimed injury**
  - b. Re-evaluate exam and objective tests to correlate**
    - i. Shoulder - acute v chronic retracted RC tears**
    - ii. Knee – meniscus/ligament injuries vs degeneration**
- 3. Equal exposure to “trauma”/activity**
  - a. Knees- walking on job vs. work**
  - b. Shoulder- push, pull, lift tasks**

In a Workers’ Compensation case, expert medical testimony is not necessarily needed to establish the cause of the injury if causation is a matter within the understanding of laypersons. *Knipp v. Nordyne, Inc.*, 969 S.W.2d 236 (Mo. Ct. App. 1998). However, when the condition presented in a case is a sophisticated injury that requires surgical intervention or highly scientific techniques for diagnosis, and especially when there is a serious question of preexisting disability, the proof of causation is not within the realm of lay understanding. *Id.* at 240

### **Medical Perspective – Explaining Causation**

- 1. Chronic changes on objective studies**
- 2. Distinguishing a strain of a chronic condition vs a new, more significant injury**
- 3. Idiopathic conditions**
  - a. Medical definition = “unknown”**
  - b. Legal definition = “innate or peculiar to the individual”**
  - c. Employer no longer liable for idiopathic conditions**

## **B. Medical Causation Standard on what medical treatment must be**

## **provided to injured worker**

[R.S.Mo.](#) Section 287.140.1 (2005) provides that an employer shall provide such medical, surgical, chiropractic, and hospital treatment, as may reasonably be required after the injury or disability, to cure and relieve from the effects of the injury. The employee bears the burden of proving his injury was medically causally related to the accident. *Irving v. Missouri State Treasurer*, 35 S.W.3d 441, 445 (Mo. Ct. App. 2000).

### **Medical Perspective – Accident or Exposure is Prevailing Factor**

- 1. Exposure at work to “injury.”**
- 2. Distinguishing objective findings as old or new**
  - a. Injuries**
  - b. Conditions**
  - c. Injuries with pre-existing conditions**

An employee has the burden of proving his entitlement to benefits for care and treatment authorized by Section 287.140.1, i.e., that which is reasonably required to cure and relieve from the effects of the work injury. *Rana v. Landstar TLC*, 46 S.W.3d 614, 622 (Mo. Ct. App. 2001). Meeting that burden requires that the past bills be causally related to the work injury. *Bowers v. Hiland Dairy Co.*, 132 S.W.3d 260 (Mo. Ct. App. 2004).

### **Medical Perspective – Treatment Required in a Compensable Injury**

- 1. Distinguishing between old CONDITIONS and new INJURY**
  - a. Past injuries/medical records**
  - b. X-Ray and MRI findings**
  - c. Mechanism of injury claimed**
  - d. Idiopathic is an etiology (cause)**
- 2. Finding a reason for or against ongoing symptoms in aggravations to pre-existing conditions**
  - a. Nature and type of symptoms**
  - b. Previous records**
  - c. Natural history of conditions**
    - i. Rotator cuff changes**
    - ii. Arthritis**
- 3. Reasonable recovery time for strains to pre-existing injuries**
  - a. Strains in chronic conditions can take longer to recover**
  - b. Subjective symptoms ALONE are less valid over time if no objective correlate**
- 4. “To cure and relieve”**
  - a. Determine what can be treated**
  - b. Diagnosis guides treatment**
    - i. Acute injury**
    - ii. Strains to chronic conditions**
    - iii. Treatment of acute injury can involve simultaneous treatment of preexisting conditions**

### **C. Medical Causation Standard for Future Medical benefits.**

The burden is on the employee to prove his entitlement to an allowance for future medical treatment. *Dean v. St. Luke's Hosp.*, 936 S.W.2d 601, 603 (Mo. Ct. App. 1997). The standard for proof of entitlement to an allowance for future medical treatment cannot be met simply by offering testimony that it is "possible" that the employee will need future medical treatment. *Id.* (citing *Modlin v. Sun Mark, Inc.*, 699 S.W.2d 5, 7 (Mo. Ct. App. 1985)).

An employee must demonstrate by a "reasonable probability" that they will need future medical treatment. *Id.* "Probable" means founded on reason and expertise which inclines the mind to believe but leaves room for doubt. *Id.* (citing *Tate v. Southwestern Bell Tel. Co.*, 715 S.W.2d 326, 329 (Mo. Ct. App. 1986)). Furthermore, in order to be awarded future medical benefits, the employee must show that the medical care flows from the accident. *Conrad v. Jack Cooper Transp. Co.*, 273 S.W.3d 49, 51 (Mo. Ct. App. 2008) (citing *Crowell v. Hawkins*, 68 S.W.3d 432, 437 (Mo Ct. App. 2001)).

### **Medical Perspective – Future Medical Treatment**

- 1. Chronic rotator cuff conditions**
  - a. Arthritis only develops in 5% of RC tears**
  - b. Weakness from imbalance of muscle function**
- 2. Joint replacement**
  - a. For symptomatic arthritis**
    - i. Traumatic joint surface cartilage injury**
    - ii. Subjective symptoms correlated with x-rays**
  - b. Meniscus excision is related to x-ray changes**
    - i. No study supports a direct link between this and**
  - c. Multifactorial nature of arthritis**
    - i. Metabolic**
    - ii. Immune system – rheumatologic**
    - iii. Weight, life, etc.**
- 3. Braces, canes, prosthetic devices**
  - a. Severe fractures with soft tissue or neurologic injury**
  - b. Rarely for soft tissue injuries**
  - c. Chronic/multiple ligament injuries**
  - d. Amputations**
- 4. Symptomatic hardware**